

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION (STAMP) NO. 27839 OF 2015

Surendra J. Parekh .. Petitioner
vs.
Mohamedali Abdul Kadar Patel & Ors. .. Respondents

Mr. D. D. Singh i/b. Mr. P. K. Dubey for Petitioner.
Mr. Ramchandani for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE: 27 OCTOBER 2015

P.C. :-

1] The Petitioner in this Civil Revision Application has made a statement that the Petitioner has filed a Marji Application under Order XLI Rule 21 of the CPC seeking a re-hearing of the Appeal, on the ground that the same was heard exparte and further, he was prevented by when the Appeal was called on hearing.

2] The Marji Application, obviously seeks a recall of impugned judgment and order dated 3 July 2015, which is the order impugned in the present Civil Revision Application. The Petitioner, cannot be permitted to pursue simultaneously two remedies.

3] Therefore, there is no reason to entertain this Civil Revision Application. The learned counsel for the Respondent Nos. 1 and 2

however submits that directions be issued to the Appeal Court to dispose of the Petitioner's Marji Application No. 677 of 2015 in Appeal No. 48 of 2011 expeditiously. The request is reasonable. Therefore, the Appeal Court is directed to dispose of the said application in accordance with law and on its own merits as expeditiously as possible and in any case within a period of three months from today.

4] The learned counsel for the Petitioner undertakes to serve upon the learned counsel appearing for the Respondent Nos. 1 and 2, copy of the Marji Application on or before 30 October 2015, since the matter is fixed before the Appeal Court on the said date. The parties to produce authenticated copy of this order before the Appeal Court on the said date.

5] It is made clear that this Court has not examined the matter on merits and therefore all contentions of all parties are left open.

6] Civil Revision Application is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)